

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:15-cv-02194-RBW**

HEFFERNAN v. UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Assigned to: Judge Reggie B. Walton
Cause: 05:552 Freedom of Information Act

Date Filed: 12/17/2015
Date Terminated: 10/16/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**HENRY G. HEFFERNAN**

represented by **Cathy Ann Harris**
KATOR, PARKS, WEISER & HARRIS,
PLLC
1200 18th Street, NW
Suite 1000
Washington, DC 20036
(202) 898-4800
Fax: (202) 289-1389
Email: charris@katorparks.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Juliette Markham Niehuss
KATOR, PARKS, WEISER & HARRIS,
PLLC
1200 18th Street, NW
Suite 1000
Washington, DC 20036
(202) 898-4800 x560
Fax: (202) 289-1389
Email: jniehuss@katorparks.com
ATTORNEY TO BE NOTICED

V.

Defendant**UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

represented by **Marina Utgoff Braswell**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2561
Fax: (202) 252-2599
Email: Marina.Braswell@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/17/2015	<u>1</u>	COMPLAINT against UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Filing fee \$ 400 receipt number 0090-4352852) filed by HENRY G. HEFFERNAN. (Attachments: # <u>1</u> Civil Cover Sheet Ex. A Civil Cover Sheet, # <u>2</u> Summons for HHS Office of General Counsel, # <u>3</u> Summons for U.S. Attorneys Office for DC, # <u>4</u> Summons for Attorney General of the United States)(Niehuss, Juliette) (Entered: 12/17/2015)
12/17/2015		Case Assigned to Judge Reggie B. Walton. (md) (Entered: 12/18/2015)

12/21/2015	<u>2</u>	SUMMONS (3) Issued Electronically as to UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice of Consent) (md) (Entered: 12/21/2015)
01/20/2016	<u>3</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 12/31/2015. Answer due for ALL FEDERAL DEFENDANTS by 1/30/2016. (Attachments: # <u>1</u> Exhibit 1 USPS Certified Mail receipts, # <u>2</u> Exhibit 2 Certified Mail returned executed US Attorney for DC, # <u>3</u> Exhibit 3 Certified Mail tracking information Attorney General, # <u>4</u> Exhibit 4 Certified Mail tracking HHS, # <u>5</u> Exhibit 5 Summons returned Proof of Service)(Niehuss, Juliette) (Entered: 01/20/2016)
01/20/2016	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 12/28/15., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES served on 12/28/2015; (See docket entry no. <u>3</u> to view documents) (td) (Entered: 01/21/2016)
02/01/2016	<u>5</u>	ENTERED IN ERROR.....NOTICE of Appearance by Marina Utgoff Braswell on behalf of UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) Modified on 2/19/2016 (zjf). (Entered: 02/01/2016)
02/01/2016	<u>6</u>	NOTICE of Appearance by Juliette Markham Niehuss on behalf of HENRY G. HEFFERNAN (Niehuss, Juliette) (Entered: 02/01/2016)
02/01/2016	<u>7</u>	ANSWER to Complaint by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.(Braswell, Marina) (Entered: 02/01/2016)
02/02/2016	<u>8</u>	GENERAL ORDER. Signed by Judge Reggie B. Walton on February 2, 2016. (lcrbw2) (Entered: 02/02/2016)
02/19/2016	<u>9</u>	MEET AND CONFER STATEMENT. (Braswell, Marina) (Entered: 02/19/2016)
02/19/2016		NOTICE OF CORRECTED DOCKET ENTRY: Document No. re <u>5</u> Notice of Appearance was entered in error and counsel was instructed to refile said pleading using their assigned login/password. (jf) (Entered: 02/19/2016)
02/19/2016	<u>10</u>	NOTICE of Appearance by Marina Utgoff Braswell on behalf of UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 02/19/2016)
02/24/2016	<u>11</u>	NOTICE of Appearance by Cathy Ann Harris on behalf of HENRY G. HEFFERNAN (Harris, Cathy) (Entered: 02/24/2016)
02/25/2016		MINUTE ORDER. Upon consideration of the Joint Proposed Schedule, and in light of the parties' consent, it is hereby ORDERED that: (1) on or before April 8, 2016, the defendant will provide to the plaintiff a Vaughn index and declaration of the information withheld by the defendant pursuant to a Freedom of Information Act ("FOIA") exemption; (2) on or before May 9, 2016, the plaintiff will inform the defendant of the exemption claim(s) that the plaintiff intends to challenge through further litigation; and (3) on or before May 19, 2016, the parties shall file a proposed briefing schedule. Signed by Judge Reggie B. Walton on February 25, 2016. (lcrbw2) (Entered: 02/25/2016)
02/25/2016		Set/Reset Deadlines: Defendant's Vaughn Index due by 4/8/2016; Plaintiff's Notice to Defendant of exemption claim(s) that the Plaintiff intends to challenge through further litigation due by 5/9/2016; proposed briefing schedule due by 5/19/2016. (tg) (Entered: 02/25/2016)
04/06/2016	<u>12</u>	Unopposed MOTION for Extension of Time to <i>Produce Vaughn Index and Declaration</i> by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 04/06/2016)
04/06/2016		MINUTE ORDER granting <u>12</u> Motion for Extension of Time. Upon consideration of the Defendant's Unopposed Motion Extension of Time, and in light of the parties' consent, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that (1) on or before April 22, 2016, the defendant shall provide to the plaintiff a Vaughn index and declaration of the information withheld by the defendant

		pursuant to a Freedom of Information Act exemption; (2) on or before May 23, 2016, the plaintiff shall inform the defendant of the exemption claims that the plaintiff intends to challenge through further litigation; (3) on or before June 5, 2016, the parties shall file a proposed briefing schedule. Signed by Judge Reggie B. Walton on April 6, 2016. (lcrbw2) (Entered: 04/06/2016)
04/07/2016		Set/Reset Deadlines: Joint Status Report due by 6/5/2016; Vaughn Index due by 4/22/2016, (hs) (Entered: 04/07/2016)
05/13/2016	<u>13</u>	Consent MOTION for Extension of Time to File <i>Complainant's response to Defendant's Vaughn Index</i> by HENRY G. HEFFERNAN (Niehuss, Juliette) (Entered: 05/13/2016)
05/13/2016	14	MINUTE ORDER granting <u>13</u> Motion for Extension of Time to File. Upon consideration of the Plaintiff's Consent Motion for Extension of Time, and in light of the parties' consent, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that on or before June 13, 2016, the plaintiff shall inform the defendant of the exemption claims that the plaintiff intends to challenge through further litigation. It is further ORDERED that on or before June 27, 2016, the parties will file a proposed briefing schedule. Signed by Judge Reggie B. Walton on May 13, 2016. (lcrbw2) (Entered: 05/13/2016)
05/13/2016		Set/Reset Deadlines: Proposed Briefing Schedule due by 6/27/2016 (hs) (Entered: 05/13/2016)
06/13/2016	<u>15</u>	Joint MOTION to Amend/Correct 14 Order on Motion for Extension of Time to File,, by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 06/13/2016)
06/14/2016		MINUTE ORDER granting <u>15</u> Motion to Amend/Correct. Upon consideration of the Joint Motion to Alter Schedule in the Case, and in light of the parties' consent, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that: (1) on or before August 15, 2016, the defendant will produce a supplemental Vaughn declaration and/or index to the plaintiff; (2) on or before September 9, 2016, the plaintiff will inform the defendant as to any additional exemption claims and/or search issues the plaintiff seeks to pursue in this litigation; and (3) on or before September 16, 2016, the parties will file a proposed briefing schedule. Signed by Judge Reggie B. Walton on June 14, 2016. (lcrbw2) (Entered: 06/14/2016)
06/17/2016		Set/Reset Deadlines: Proposed Briefing Schedule due by 9/16/2016 Vaughn Index due by 8/15/2016, (tj) (Entered: 06/17/2016)
09/16/2016	<u>16</u>	Joint MOTION for Extension of Time to <i>Confer on Vaughn Index and file briefing schedule</i> by HENRY G. HEFFERNAN (Attachments: # <u>1</u> Text of Proposed Order)(Niehuss, Juliette) (Entered: 09/16/2016)
09/16/2016		MINUTE ORDER granting <u>16</u> Motion for Extension of Time. Upon consideration of the parties' Joint Status Report and Request for More Time to Confer on Vaughn Index, and for good cause show, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that the parties shall confer regarding the defendant's Second Vaughn Index and the defendant's current search for responsive documents on or before October 17, 2016. It is further ORDERED that the parties shall file an additional joint status report on or before October 17, 2016, stating whether briefing will be needed on the sufficiency of the Vaughn Index prior to briefing on summary judgment and proposing a briefing schedule. Signed by Judge Reggie B. Walton on September 16, 2016. (lcrbw2) (Entered: 09/16/2016)
09/20/2016		Set/Reset Deadlines: Attorney Meet and Confer Conference due by 10/17/2016, Joint Status Report due by 10/17/2016 (hs) (Entered: 09/20/2016)
10/17/2016	<u>17</u>	PROPOSED BRIEFING SCHEDULE (<i>Joint Proposed Briefing Schedule on Vaughn Index</i>) by HENRY G. HEFFERNAN. (Niehuss, Juliette) (Entered: 10/17/2016)
10/17/2016		MINUTE ORDER. Upon consideration of the parties' Proposed Briefing Schedule on Vaughn Index, and for good cause shown, it is hereby ORDERED that this case shall proceed as follows: (1) the plaintiff shall file a motion for an order for a complete Vaughn Index and supplemental document search on or before November 14, 2016; (2) the defendant shall file its opposition to the plaintiff's motion on or before

		December 9, 2016; and (3) the plaintiff shall file its reply in support of its motion on or before December 23, 2016. Signed by Judge Reggie B. Walton on October 17, 2016. (lcrbw2) (Entered: 10/17/2016)
10/17/2016		Set/Reset Deadlines: Plaintiff's Motion for Vaughn Index due by 11/14/2016. Response due by 12/9/2016 Reply due by 12/23/2016. (hs) (Entered: 10/17/2016)
11/14/2016	<u>18</u>	MOTION for Vaughn Index by HENRY G. HEFFERNAN (Attachments: # <u>1</u> Memorandum in Support Points and Authorities, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit 1, # <u>4</u> Exhibit 2, # <u>5</u> Exhibit 3, # <u>6</u> Exhibit 4, # <u>7</u> Exhibit 5, # <u>8</u> Exhibit 6, # <u>9</u> Exhibit 7, # <u>10</u> Exhibit 8, # <u>11</u> Exhibit 9, # <u>12</u> Exhibit 10, # <u>13</u> Exhibit 11, # <u>14</u> Exhibit 12, # <u>15</u> Exhibit 13, # <u>16</u> Exhibit 14)(Niehuss, Juliette) (Entered: 11/14/2016)
11/15/2016	<u>19</u>	NOTICE of Filing of Corrected Memorandum in Support by HENRY G. HEFFERNAN re <u>18</u> MOTION for Vaughn Index (Attachments: # <u>1</u> Memorandum in Support Corrected Memorandum in Support of Motion for Complete Vaughn Index)(Niehuss, Juliette) (Entered: 11/15/2016)
12/09/2016	<u>20</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>18</u> MOTION for Vaughn Index by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 12/09/2016)
12/12/2016		MINUTE ORDER. Upon consideration of the Defendant's Unopposed Motion [for] Extension of Time, and for good cause shown, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that the defendant shall file a response to the plaintiff's motion for a complete Vaughn index on or before December 14, 2016. Signed by Judge Reggie B. Walton on December 12, 2016. (lcrbw2) (Entered: 12/12/2016)
12/12/2016		Set/Reset Deadlines: Defendant's Response due by 12/14/2016 (hs) (Entered: 12/12/2016)
12/14/2016	<u>21</u>	Memorandum in opposition to re <u>18</u> MOTION for Vaughn Index , <i>in part</i> , filed by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Cornell Declaration)(Braswell, Marina) (Entered: 12/14/2016)
12/30/2016	<u>22</u>	NOTICE <i>Praeipie on Proposed Order for Vaughn Index and Document Search</i> by HENRY G. HEFFERNAN re <u>18</u> MOTION for Vaughn Index , <u>21</u> Memorandum in Opposition (Niehuss, Juliette) (Entered: 12/30/2016)
01/02/2017		MINUTE ORDER. Upon consideration of the Plaintiff's Motion for a Complete Vaughn Index, the Defendant's Opposition in Part to Plaintiff's Motion for a Complete Vaughn Index, and the Plaintiff's Praeipie Regarding Vaughn Index and Document Search, it is hereby ORDERED that the Plaintiff's Motion for a Complete Vaughn Index, ECF No. 18, is DENIED as moot. It is further ORDERED that the defendant shall perform the tasks agreed upon as set out in the Cornell Declaration, ECF No. 21-1, on or before January 31, 2017. Signed by Judge Reggie B. Walton on January 2, 2017. (lcrbw2) (Entered: 01/02/2017)
06/09/2017	<u>23</u>	PROPOSED BRIEFING SCHEDULE <i>Joint Status Report and Proposed Briefing Schedule</i> by HENRY G. HEFFERNAN. (Niehuss, Juliette) (Entered: 06/09/2017)
06/09/2017		MINUTE ORDER. Upon consideration of the parties' Joint Status [Report] and Proposed Briefing Schedule, it is hereby ORDERED that this case shall proceed as follows: (1) the defendant shall file its motion for summary judgment on or before July 14, 2017; (2) the plaintiff shall file his opposition to the defendant's motion for summary judgment and his cross-motion for summary judgment, if any, on or before August 18, 2017; (3) the defendant shall file its reply in support of its motion for summary judgment and its opposition to the plaintiff's cross-motion for summary judgment on or before September 18, 2017; and (4) the plaintiff shall file his reply in support of his cross-motion for summary judgment on or before October 2, 2017. Signed by Judge Reggie B. Walton on June 9, 2017. (lcrbw2) (Entered: 06/09/2017)
06/13/2017		Set/Reset Deadlines: Summary Judgment motion due by 7/14/2017. Response to Motion for Summary Judgment due by 8/18/2017. Reply to Motion for Summary Judgment due by 9/18/2017. Reply to Cross Motion due by 10/2/2017. (hs) (Entered: 06/13/2017)

07/13/2017	<u>24</u>	Unopposed MOTION for Extension of Time to File <i>Dispositive Motion</i> by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 07/13/2017)
07/14/2017		MINUTE ORDER. Upon consideration of the Defendant's Unopposed Motion [for] Extension of Time, and for good cause shown, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that this case shall proceed as follows: (1) the defendant shall file its motion for summary judgment on or before July 19, 2017; (2) the plaintiff shall file his opposition to the defendant's motion and his cross-motion for summary judgment, if any, on or before August 23, 2017; (3) the defendant shall file its reply in support of its motion and its opposition to the plaintiff's cross-motion on or before September 18, 2017; and (4) the plaintiff shall file his reply in support of his cross-motion on or before October 2, 2017. Signed by Judge Reggie B. Walton on July 14, 2017. (lcrbw2) (Entered: 07/14/2017)
07/14/2017		Set/Reset Deadlines: Defendant's Summary Judgment motions due by 7/19/2017. Defendant's Response to Motion for Summary Judgment/Cross Motion due by 8/23/2017. Reply to Motion for Summary Judgment due by 9/18/2017. Plaintiff's Reply to Cross Motion due by 10/2/2017. (hs) (Entered: 07/14/2017)
07/19/2017	<u>25</u>	MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 07/19/2017)
07/19/2017	<u>26</u>	NOTICE of Filing by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES re <u>25</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Cornell Declaration, # <u>2</u> Uhl Declaration, # <u>3</u> Vaughn Index)(Braswell, Marina) (Entered: 07/19/2017)
08/23/2017	<u>27</u>	Memorandum in opposition to re <u>25</u> MOTION for Summary Judgment <i>and Cross Motion for Summary Judgment</i> filed by HENRY G. HEFFERNAN. (Attachments: # <u>1</u> Memorandum in Support Opposition to Summary Judgment and Cross-Motion for Summary Judgment, # <u>2</u> Statement of Facts Ex 1 Plaintiffs Response SOF and Statement of Material Facts, # <u>3</u> Exhibit 2 Declaration of Henry Heffernan, # <u>4</u> Exhibit 3 Annotated Third Vaughn, # <u>5</u> Exhibit 4 FOIA requests, # <u>6</u> Exhibit 5 FOIA initial response, # <u>7</u> Exhibit 6 FOIA final response, # <u>8</u> Exhibit 7 FOIA appeal, # <u>9</u> Exhibit 8 First Index and Cornell Decl, # <u>10</u> Exhibit 9 May June 2016 emails, # <u>11</u> Exhibit 10 June 13 2016 letter, # <u>12</u> Exhibit 11 2nd Vaughn w Plaintiffs comments, # <u>13</u> Exhibit 12 Sept 9 2016 letter, # <u>14</u> Exhibit 13 Sept Oct 2016 emails, # <u>15</u> Exhibit 14 3rd Vaughn Index Uhl declaration, # <u>16</u> Exhibit 15 Feb 2017 emails, # <u>17</u> Exhibit 16 3rd production correspondence, # <u>18</u> Exhibit 17 Item D release, # <u>19</u> Exhibit 18 April 2016 CC report, # <u>20</u> Exhibit 19 July 2017 CC report, # <u>21</u> Exhibit 20 Sample Gormley release, # <u>22</u> Exhibit 21 Power Point, # <u>23</u> Exhibit 22 Action Plan redactions, # <u>24</u> Exhibit 23 ORT Reports redactions, # <u>25</u> Exhibit 24 ORT Background materials, # <u>26</u> Exhibit 25 April 2014 OR report, # <u>27</u> Text of Proposed Order Proposed order)(Niehuss, Juliette) (Entered: 08/23/2017)
08/23/2017	<u>28</u>	Cross MOTION for Summary Judgment by HENRY G. HEFFERNAN. (See Docket Entry <u>27</u> to view document). (znmw) (Entered: 08/24/2017)
09/13/2017	<u>29</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>25</u> MOTION for Summary Judgment , <u>28</u> MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 09/13/2017)
09/14/2017		MINUTE ORDER granting <u>29</u> . Upon consideration of the Defendant's Unopposed Motion [for] Extension of Time, and for good cause shown, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that the defendant shall file its reply in support of its motion for summary judgment and its opposition to the plaintiff's cross-motion for summary judgment on or before October 12, 2017. It is further ORDERED that, upon review of the defendant's anticipated filing, the plaintiff shall forthwith file a notice on the docket informing the Court as to the time needed to file his reply in support of his cross-motion. Signed by Judge Reggie B. Walton on September 14, 2017. (lcrbw2) (Entered: 09/14/2017)
09/14/2017		Set/Reset Deadlines: Defendant's Reply to its Motion for Summary Judgment due by 10/12/2017. (hs) (Entered: 09/14/2017)

10/11/2017	<u>30</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>25</u> MOTION for Summary Judgment , 28 MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 10/11/2017)
10/12/2017		MINUTE ORDER granting <u>30</u> . Upon consideration of the Defendant's Unopposed Motion for Further Extension of Time, and for good cause shown, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that the defendant shall file its reply in support of its motion for summary judgment and its opposition to the plaintiff's cross-motion for summary judgment on or before October 27, 2017. It is further ORDERED that, upon review of the defendant's anticipated filing, the plaintiff shall forthwith file a notice on the docket informing the Court as to the time needed to file his reply in support of his cross-motion. Signed by Judge Reggie B. Walton on October 12, 2017. (lcrbw2) (Entered: 10/12/2017)
10/12/2017		Set/Reset Deadlines: Defendant's Reply in support of its Motion for Summary Judgment/Cross Motion Opposition due by 10/27/2017. (hs) (Entered: 10/12/2017)
10/27/2017	<u>31</u>	MOTION for Extension of Time to File Response/Reply as to <u>25</u> MOTION for Summary Judgment , 28 MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Attachments: # <u>1</u> Clipper Declaration)(Braswell, Marina) (Entered: 10/27/2017)
10/31/2017		MINUTE ORDER granting <u>31</u> . Upon consideration of the Defendant's Motion for Further Extension of Time, and for good cause shown, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that the defendant shall file its reply in support of its motion for summary judgment and its opposition to the plaintiff's cross-motion for summary judgment on or before November 30, 2017. It is further ORDERED that, upon review of the defendant's anticipated filing, the plaintiff shall forthwith file a notice on the docket informing the Court as to the time needed to file his reply in support of his cross-motion. It is further ORDERED that further extensions of time will be granted only upon a showing of exigent circumstances. Signed by Judge Reggie B. Walton on October 31, 2017. (lcrbw2) (Entered: 10/31/2017)
10/31/2017		Set/Reset Deadlines: Defendant's Reply to Motion for Summary Judgment/Cross Motion due by 11/30/2017. (hs) (Entered: 10/31/2017)
11/30/2017	<u>32</u>	Memorandum in opposition to re 28 MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Response to Plaintiff's Statement of Facts, # <u>2</u> Garcia-Malene Declaration, # <u>3</u> Pollack Declaration, # <u>4</u> Henderson Declaration, # <u>5</u> Laura's Declaration)(Braswell, Marina) (Entered: 11/30/2017)
11/30/2017	<u>33</u>	REPLY to opposition to motion re <u>25</u> MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Garcia-Malene Declaration, # <u>2</u> Pollack Declaration)(Braswell, Marina) (Entered: 11/30/2017)
12/01/2017	<u>34</u>	NOTICE of Filing by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES re <u>32</u> Memorandum in Opposition, (Attachments: # <u>1</u> Exhibits 1-5)(Braswell, Marina) (Entered: 12/01/2017)
12/04/2017	<u>35</u>	MOTION for Extension of Time to File Response/Reply <i>NOTICE OF TIME NEEDED TO FILE REPLY IN SUPPORT OF CROSS-MOTION FOR SUMMARY JUDGMENT</i> by HENRY G. HEFFERNAN re <u>34</u> Notice (Other), Order on Motion for Extension of Time to File Response/Reply. (Niehuss, Juliette) Modified event title on 12/5/2017 (znmw). (Entered: 12/04/2017)
12/15/2017	<u>36</u>	NOTICE of Filing of Supplemental Declaration by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES re <u>25</u> MOTION for Summary Judgment , <u>33</u> Reply to opposition to Motion (Attachments: # <u>1</u> Supplemental Declaration)(Braswell, Marina) (Entered: 12/15/2017)
12/21/2017	<u>37</u>	Consent MOTION for Leave to File Excess Pages <i>Plaintiff's Motion for Extension of Page Limit</i> by HENRY G. HEFFERNAN (Attachments: # <u>1</u> Memorandum in Support Memorandum of Points and Authorities and Proposed Order)(Niehuss, Juliette) (Entered: 12/21/2017)

12/21/2017		MINUTE ORDER. Upon consideration of both the Plaintiff's Notice of Time Needed to File Reply in Support of Cross-Motion for Summary Judgment and the Plaintiff's Motion for Extension of Page Limit, and in light of the defendant's consent, it is hereby ORDERED that both motions are GRANTED. It is further ORDERED that the plaintiff shall file his reply brief in support of his cross-motion for summary judgment on or before December 22, 2017. It is further ORDERED that the plaintiff's reply brief shall not exceed thirty pages. Signed by Judge Reggie B. Walton on December 21, 2017. (lcrbw2) (Entered: 12/21/2017)
12/22/2017	<u>38</u>	REPLY to opposition to motion re 28 MOTION for Summary Judgment <i>Plaintiff's Reply in Support of Plaintiff's Cross Motion for Summary Judgment and to Agency Opposition to Plaintiff's Cross-Motion</i> filed by HENRY G. HEFFERNAN. (Attachments: # <u>1</u> Text of Proposed Order Plaintiff's Proposed Order on Summary Judgment, # <u>2</u> Exhibit Plaintiff's Supplemental Exhibit 1 Heffernan Supp. Decl., # <u>3</u> Exhibit Plaintiff's Supplemental Exhibit 2 Garcia-Malene letter, # <u>4</u> Exhibit Plaintiff's Supplemental Exhibit 3 New power point document, # <u>5</u> Exhibit Plaintiff's Supplemental Exhibit 4 Gallin email, # <u>6</u> Exhibit Plaintiff's Supplemental Exhibit 5 Gormley email)(Niehuss, Juliette) (Entered: 12/22/2017)
06/27/2018	<u>39</u>	ORDER. In accordance with the Memorandum Opinion issued on this same date, it is hereby ORDERED that the Defendant's Motion for Summary Judgment, ECF No. 25, is GRANTED IN PART AND DENIED WITHOUT PREJUDICE IN PART. It is further ORDERED that the Plaintiff's Opposition to Summary Judgment and Cross-Motion for Summary Judgment, ECF No. 27, is DENIED. See attached Order for details. Signed by Judge Reggie B. Walton on June 27, 2018. (lcrbw2) (Entered: 06/27/2018)
06/27/2018	<u>40</u>	MEMORANDUM OPINION. Signed by Judge Reggie B. Walton on June 27, 2018. (lcrbw2) (Entered: 06/27/2018)
06/27/2018		Set/Reset Deadlines: Renewed Summary Judgment motion due by 7/27/2018. (hs) (Entered: 06/27/2018)
07/23/2018	<u>41</u>	MOTION for Extension of Time to File Response/Reply to <i>Court's June 27, 2018 Order</i> by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 07/23/2018)
07/24/2018	<u>42</u>	NOTICE to the Court by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES re <u>41</u> MOTION for Extension of Time to File Response/Reply to <i>Court's June 27, 2018 Order</i> (Braswell, Marina) (Entered: 07/24/2018)
07/30/2018	<u>43</u>	ERRATA regarding ECF 41 by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Corrected Proposed Order)(Braswell, Marina) (Entered: 07/30/2018)
07/31/2018		MINUTE ORDER. Upon consideration of the defendant's motion, and for good cause shown, it is hereby ORDERED that the <u>41</u> Defendant's Motion for Extension of Time is GRANTED. It is further ORDERED that the defendant shall respond to the Court's Order dated June 27, 2018, on or before August 3, 2018. Signed by Judge Reggie B. Walton on July 31, 2018. (lcrbw2) (Entered: 07/31/2018)
07/31/2018		Set/Reset Deadlines: Response to the Court's Order dated June 27, 2018 due by 8/3/2018 (hs) (Entered: 07/31/2018)
08/01/2018	<u>44</u>	Joint MOTION to Stay <i>Proceedings</i> by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 08/01/2018)
08/21/2018		MINUTE ORDER. Upon consideration of the parties' <u>44</u> Joint Motion to Stay the Proceedings, it is hereby ORDERED that the motion is DENIED. It is further ORDERED that the deadline for the defendant to file a renewed motion for summary judgment is VACATED. It is further ORDERED that the parties shall file a joint status report on or before September 14, 2018, advising the Court of how they wish to proceed in this case. Signed by Judge Reggie B. Walton on August 21, 2018. (lcrbw2) (Entered: 08/21/2018)
08/21/2018		Set/Reset Deadlines: Joint Status Report due by 9/14/2018 (hs) (Entered: 08/21/2018)

09/14/2018	<u>45</u>	Joint STATUS REPORT by HENRY G. HEFFERNAN. (Niehuss, Juliette) (Entered: 09/14/2018)
09/18/2018		MINUTE ORDER. Upon consideration of the parties' <u>45</u> Joint Status Report, it is hereby ORDERED that the defendant shall file his renewed motion for summary judgment on or before October 31, 2018. It is further ORDERED that the plaintiff shall file his opposition to the defendant's motion and his cross-motion for summary judgment on or before November 30, 2018. It is further ORDERED that the defendant shall file a reply in support of his motion and an opposition to the plaintiff's cross-motion on or before January 10, 2019. It is further ORDERED that the plaintiff shall file a reply in support of his cross-motion on or before January 25, 2019. Signed by Judge Reggie B. Walton on September 18, 2018. (lcrbw2) (Entered: 09/18/2018)
09/18/2018		Set/Reset Deadlines: Renewed Summary Judgment motion due by 10/31/2018. Response to Motion for Summary Judgment/Cross Motion due by 11/30/2018. Reply to Motion for Summary Judgment due by 1/10/2019. Reply to Cross Motions due by 1/25/2019. (hs) (Entered: 09/18/2018)
10/31/2018	<u>46</u>	MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Attachments: # <u>1</u> Garcia-Malene Supplemental Declaration)(Braswell, Marina) (Entered: 10/31/2018)
11/30/2018	<u>47</u>	Memorandum in opposition to re <u>46</u> MOTION for Summary Judgment <i>Opposition to Renewed Motion for Summary Judgment and Cross-Motion for Summary Judgment</i> filed by HENRY G. HEFFERNAN. (Attachments: # <u>1</u> Memorandum in Support Memorandum in Opposition to Summary Judgment and in Support of Cross-Motion, # <u>2</u> Statement of Facts Plaintiff's Response to Defendant's Statement of Facts, # <u>3</u> Statement of Facts Plaintiff's Statement of Material Facts, # <u>4</u> Exhibit 1 Excerpts ORT slides, # <u>5</u> Exhibit 2 Clinical Center Org Chart, # <u>6</u> Exhibit 3 Gallin and Finan May 2007 correspondence re ORT, # <u>7</u> Exhibit 4 Gadlin July 2007 letter, # <u>8</u> Exhibit 5 Sept 21 2007 ABCR report excerpts, # <u>9</u> Exhibit 6 April 28 2007 Gallin email re press release, # <u>10</u> Exhibit 7 Gallin email to Finan SGE process, # <u>11</u> Text of Proposed Order Plaintiff's Proposed Order)(Niehuss, Juliette) (Entered: 11/30/2018)
11/30/2018	<u>48</u>	Cross MOTION for Summary Judgment by HENRY G. HEFFERNAN; (See docket entry no. <u>47</u> to view.) (ztd) (Entered: 12/03/2018)
01/07/2019	<u>49</u>	Unopposed MOTION to Stay (<i>Defendant's Unopposed Motion to Stay Proceedings in Light of Lapse in Appropriations</i>) by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Braswell, Marina) (Entered: 01/07/2019)
01/08/2019		MINUTE ORDER. Upon consideration of the <u>49</u> Defendant's Unopposed Motion to Stay Proceedings in Light of Lapse of Appropriations, and for good cause shown, it is hereby ORDERED that the motion is GRANTED IN PART AND DENIED IN PART. The motion is GRANTED to the extent that the defendant seeks to vacate the impending deadlines in this case. The motion is DENIED in all other respects. It is further ORDERED that the impending deadlines in this case are VACATED pending further Order of the Court. It is further ORDERED that, on or before January 28, 2019, the parties shall file a joint status report regarding how this case shall proceed. Signed by Judge Reggie B. Walton on January 8, 2019. (lcrbw2) (Entered: 01/08/2019)
01/08/2019		Set/Reset Deadlines: Joint Status Report due by 1/28/2019 (hs) (Entered: 01/08/2019)
01/23/2019		MINUTE ORDER. In light of the continued lapse in appropriations, it is hereby ORDERED that the previously imposed deadline for filing a joint status report on or before January 28, 2019, is VACATED. It is further ORDERED that, on or before fourteen days after appropriations have been restored, the parties shall file a joint status report proposing new deadlines in this case. Signed by Judge Reggie B. Walton on January 23, 2019. (lcrbw2) (Entered: 01/23/2019)
02/08/2019	<u>50</u>	Joint STATUS REPORT and Proposed Briefing Schedule by HENRY G. HEFFERNAN. (Niehuss, Juliette) (Entered: 02/08/2019)
02/08/2019		MINUTE ORDER. Upon consideration of the parties' <u>50</u> Joint Status Report, and for good cause shown, it is hereby ORDERED that the defendant shall file a reply in support of his renewed motion for summary judgment and an opposition to the plaintiff's cross-motion for summary judgment on or before February 27, 2019. It is further ORDERED that the plaintiff shall file a reply in support of his cross-motion

		for summary judgment on or before March 15, 2019. Signed by Judge Reggie B. Walton on February 8, 2019. (lcrbw2) (Entered: 02/08/2019)
02/11/2019		Set/Reset Deadlines: defendant's reply in support of his renewed motion for summary judgment and an opposition to the plaintiff's cross-motion for summary judgment due by 2/27/2019, plaintiff's reply in support of his cross-motion for summary judgment on due by 3/15/2019. (hs) (Entered: 02/11/2019)
02/27/2019	<u>51</u>	Memorandum in opposition to re 48 MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Statement of Facts Response, # <u>2</u> Second Supplemental Garcia-Malene Declaration)(Braswell, Marina) (Entered: 02/27/2019)
02/27/2019	<u>52</u>	REPLY to opposition to motion re <u>46</u> MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Second Supplemental Garcia-Malene Declaration)(Braswell, Marina) (Entered: 02/27/2019)
03/15/2019	<u>53</u>	REPLY to opposition to motion re 48 MOTION for Summary Judgment <i>in Support of Plaintiff's Cross-Motion for Summary Judgment</i> filed by HENRY G. HEFFERNAN. (Attachments: # <u>1</u> Exhibit A (Second version of April 28, 2007 with different redactions))(Niehuss, Juliette) (Entered: 03/15/2019)
09/30/2019	<u>54</u>	ORDER. In accordance with the attached Order, it is hereby ORDERED that the <u>46</u> Defendant's Renewed Motion for Summary Judgment is GRANTED. It is further ORDERED that the <u>47</u> Plaintiff's Opposition to Summary Judgment and Cross-Motion for Summary Judgment is DENIED. It is further ORDERED that this Order is not a final Order subject to appeal. Signed by Judge Reggie B. Walton on September 30, 2019. (lcrbw2) (Entered: 09/30/2019)
10/16/2019	<u>55</u>	MEMORANDUM OPINION. Signed by Judge Reggie B. Walton on October 16, 2019. (lcrbw2) (Entered: 10/16/2019)
10/16/2019	<u>56</u>	ORDER. In accordance with the Memorandum Opinion issued by the Court on this same date, it is hereby ORDERED that the <u>46</u> Defendant's Renewed Motion for Summary Judgment is GRANTED. It is further ORDERED that the <u>47</u> Plaintiff's Opposition to Summary Judgment and Cross-Motion for Summary Judgment is DENIED. It is further ORDERED that summary judgment is ENTERED for the defendant on the plaintiff's Complaint. It is further ORDERED that this case is CLOSED. Signed by Judge Reggie B. Walton on October 16, 2019. (lcrbw2) (Entered: 10/16/2019)